Remarks

Favorable consideration and allowance are respectfully requested for claims 27-39, 43-55, 60 and 61.

Restriction Requirement

Claims 40-42 depend from claim 27. Since as explained below, claim 27 is allowable, rejoinder of claims 40-42 is respectfully requested.

Claims 57-59 depend from claim 48. Since, as explained below, claim 48 is allowable, rejoinder of claims 57-59 is respectfully requested.

Applicants wish to point out § 821.04 of the MPEP which provides for rejoinder of claims that include all of the limitations of otherwise allowable claims.

Further, the original restriction is based on an incorrect premise which is that the originally presented claims were directed to a purely chance based game (rather than the skill based game of claim 40 and 57) or solely to a lottery system (rather than the sports related wagering of claims 41-42 and 58-59).

As originally presented, the claims were, and still are, open-ending, allowing for the inclusion of additional features. Claim 27, for instance, contemplates a system with a lottery ticket that is useful for playing both a lottery game *and* a second interactive Internet game. Claim 27 includes a lottery game and is thus directed to a lottery gaming system regardless of how the second interactive Internet game operates. In particular, the interactive Internet game could be any imaginable type of game and yet the system would still be a lottery gaming system because the the system still includes a lottery game. For this reason, the preamble in claim 27 is properly descriptive of the embodiment contemplated by claim 40. Claim 40 depends from claim 27 and merely adds that the interactive Internet game is based in part on a skill component. Claim 40 is directed to a subset of the systems within the scope of the claim 27.

The preamble of claim 27 does not preclude the additional features appearing in the presently restricted dependent claims, particularly as these features do not change the reality that the system includes a lottery game. The same logic applies to the restriction of claims 57-59 in

view of pending claim 48. For these reasons, reconsideration and withdrawal of the restriction are respectfully requested.

35 U.S.C. § 103

The rejection of claims 27-38, 43-54, 60 and 61 under 35 U.S.C. § 103(a) over Kaye (US 5,569,082) in view of Roberts (US 5,772,510) is respectfully traversed.

The pending claims are directed to systems and methods where a player has a choice between purchasing either a preprinted instant lottery ticket or a hybrid lottery ticket that includes both a regular instant lottery play and a play in a second interactive Internet game.

Kaye is directed to a "Personal Computer Lottery Game" where a player enters a code from a game piece into a processor and the processor checks the code to determine whether the player is a winner, see the title and abstract of Kaye. As indicated in the Office Action, Kaye teaches that a player may select "either a simply 'lotto' game ***or*** an interactive 'horses game'", (emphasis added), see the Office Action near the middle of page 7, citing col. 7: 45-54 of Kaye.

Kaye does not, however, teach a hybrid ticket having plays for multiple different types of games. In this respect, Kaye does not teach that a player might select a ticket having ***both*** a preprinted instant lottery game ***and*** a play in a second interactive Internet game. Instead, Kaye describes a system where a player receives a game piece having a code. Upon entry of this "Destiny Code", the player is allowed to make a selection for a computer game based game. Further, as correctly indicated in the Office Action (page 7), Kaye does not disclose any games without the "Destiny Code" feature.

Kaye does not describe that a player might make a selection between a "Destiny Code" game and a non "Destiny Code" game, much less that a player might select a game based on a preprinted intant lottery ticket. Rather, all Kaye contemplates is that a player could select between alternatives for a computer-implemented game played with the Destiny Code. In contrast to Kaye, the claims relate to systems and methods where a player makes a selection between (i) a preprinted instant lottery ticket or (ii) a hybrid lottery ticket that includes both a regular instant lottery play and a play in a second interactive Internet game. As such, Kaye does not teach, or even contemplate, a player choice as featured in the claims. Rather, Kaye's

teaching of a choice is limited to a selection between different variants of a computer-implemented game.

The Office Action cites Figure 7 "and the related description" of Roberts as teaching a "hybrid lottery ticket that is also usable in an interactive Internet game." There is nothing in Roberts, however, that teaches an interactive Internet game. Indeed, the word "Internet" does not appear anywhere in the Roberts patent. Thus, Roberts does not teach, or even appear to relate to, an interactive Internet game.

The comment in the recent Office Action that Roberts provides 62 mentions of a computer is irrelevant to the question of whether or not Roberts teaches **an interactive Internet game** as claimed. There is nothing about any of Roberts' games themselves that could accurately be described with both of the adjectives "interactive" and "Internet." Further, Roberts' references to a computer generally relate to ticket generation, not to the actual game played with the ticket. As such, Roberts does not teach an interactive Internet game as claimed.

Not only does Roberts not describe an interactive Internet game, Roberts does not describe that a player has a choice of purchasing either a preprinted instant lottery ticket or a hybrid lottery ticket that includes both a regular instant lottery play and a play in a second interactive Internet game. Roberts describes two distinct possibilities: (i) a "hybrid" lottery ticket having a scratch-off instant win game *and* an entry in a future lottery drawing; and (ii) a lottery ticket having only an entry in a future lottery drawing. The first possibility is based on the "hybrid" tickets shown in Figures 2A-2C, as described in col. 2: 40-48:

> the non-completed lottery ticket is provided with a pre-printed, concealed "mystery" number and when completed, is printed with at least one other lottery, or "lucky" number. When the concealed number is exposed, as when "rub-off" material concealing such pre-printed number is removed, the purchaser is now able to determine whether the "mystery" number and the lottery "lucky" number match, and therefore whether the ticket is entitled to a prize.

The second possibility is based on the tickets shown in Figures 8A and 8B, which are included in the vending machine of Figure 7, as described in col. 6: 5-59:

> the computer 18 sends to the interface 17 ticket completion information necessary to provide a completed lottery ticket (i.e., the ticket completion information 20a, 20b, described above in connection with FIG. 2B) and "play data" 26', here a randomly selected lottery drawing number in blank region 29'.

Roberts does not teach that any player would be provided a **choice** between these two possibilities or that a vending machine might offer both varieties of tickets. Further, Roberts does not teach a preprinted instant lottery ticket that does not include the additional future drawing game. As such, Roberts necessarily cannot teach a choice of an instant lottery ticket that is not activated for added game play, such as the claimed interactive Internet game.

Contrary to the assertion in the Office Action, Roberts does not teach that the vending machine of Figure 7 would contain "games that are scratch off and games that are not." In fact, when describing Figure 7, Roberts expressly excludes scratch off tickets, stating "[h]ere tickets 12' are similar to the tickets 12 shown in FIG. 2A except that they do not have a 'mystery' number and therefore ***do not have 'rub-off' material 24***." Col. 6: 43-46, (emphasis added).

Roberts does not teach that a single vending machine might be configured to vend both different types of tickets. Roberts also does not teach that a player might be provided a **choice** between two different ticket types. Roberts does not teach an interactive internet game or any tickets usable in an interactive Internet game, including any hybrid tickets. Further, Roberts does not teach a simple instant win ticket that does not also include an opportunity for a win in a future drawing.

Given the disparate teaching of these two references, with Kaye describing a "Destiny Code" based system that is used to allow for play of a computer based game, and Roberts describing a hybrid ticket that does not involve any computer based play, it is not clear how these references could even be combined. Indeed, given the sigificant differences between the references, the proposed combination is improper.

Even assuming, *arguendo*, that a skilled artisan were to combine Roberts and Kaye, they would not arrive at the invention contemplated in the claims. At best, the resulting combination would be a system that could issue tickets including Kaye's required "Destiny Code." The references do not teach any ability to select an instant lottery ticket from among other ticket types. Similarly, the references to do not teach a stand alone instant lottery ticket that does not provide for an additional game play. Combining the references, there is no way to arrive at systems and methods that offer a choice between either a regular preprinted instant lottery ticket

or a hybrid lottery ticket that includes both a regular instant lottery play and a play in a second interactive Internet game.

Even relying on the claims in a hindsight analysis, there is no way to work from the cited references and arrive at the claimed invention. In particular, there is no way to arrive at a choice between different ticket types where one option is a hybrid ticket including both an instant lottery game and an interactive Internet game and another option is an instant lottery game without the interactive Internet game. Thus, because the cited references: do not teach each and every feature of the claimed invention; are not properly combinable; and could not be combined so as to arrive at the claimed invention, the obviousness rejection cannot be properly maintained and reconsideration and withdrawal thereof are respectfully requested.

The rejection of claim 39 under 35 U.S.C. § 103(a) over Kaye in view of Roberts and Walker (US 6,497,408) is respectfully traversed.

Claim 39 depends from claim 27 and includes the features thereof. Walker does not make up for the failure of Kaye and Roberts to meet the features of independent claim 27. Accordingly, claim 39 is allowable for at least the same reasons that independent claim 27 is allowable.

Reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claim 55 under 35 U.S.C. § 103(a) over Kaye in view of Roberts and Mullines (US 5,158,293) is respectfully traversed.

Claim 55 depends from claim 48 and includes the features thereof. Mullins does not make up for the failure of Kaye and Roberts to meet the features of independent claim 48. Accordingly, claim 55 is allowable for at least the same reasons that independent claim 48 is allowable.

Reconsideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

In the event that any further fees are due, please apply any charges or credits to deposit account 50-3211 referencing Attorney Docket No. 21204.0211US.

Respectfully submitted,

Date: September 16, 2010

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